



Real Estate Bulletin

RIOPELLE GROUP PROFESSIONAL CORPORATION

SOCIÉTÉ PROFESSIONNELLE LE GROUPE RIOPELLE

Probate and selling the estate property

December 2014

1 When is probate needed to sell a property?

A Certificate of Appointment of Estate Trustee (commonly “Probate”) is most often required to transfer real estate in Ontario when:

- the deceased did not have a Will;
- there is no named Estate Trustee in the deceased’s Will who can act;
- the deceased’s Will is from another province or country;
- or the deceased owned the property solely, in no capacity or as a tenant in common *and* the total value of all estate assets at death exceeds \$50,000.00.

Where the deceased owned real estate as a joint tenant with a surviving owner and any required spousal consent has been obtained (see our *Estates Part 1 bulletin*), Probate is not required.

A survivorship application will remove the deceased from title, permitting the survivor to sell. This application can be performed in advance of or immediately prior to sale.

2 When can the property be listed for sale?

If your client has obtained a certificate of appointment in Ontario or a certificate is not required to sell the property, it may be listed

immediately.

If a certificate is required and your client is the named estate trustee, the property may be listed for sale, however any sale must be conditional upon receipt of a certificate of appointment of Estate Trustee.

If the deceased did not have a Will or if there is no estate trustee named in the Will who can act, no person has any authority to act for the estate and you must wait to receive probate before listing the property.

3 How long does probate take to receive?

The timeframe for receipt of a certificate of appointment of Estate Trustee varies widely based on the complexity of the estate, the jurisdiction and the parties involved. It is best to seek the advice of the lawyer acting for the estate on the projected timeframe for probate.

The client should be encouraged to begin the probate application process as early as possible to avoid delaying the sale process.

Regards,

Eleanor Baccega

NOTE: The offices of Riopelle Group will be closed from Dec. 24, 2014, through Jan. 4, 2015.

The lawyers and staff at Riopelle Group would like to take this time to wish you and your families a joyous holiday season and a healthy and happy new year.

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